

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 L-03 EB-11 H-03 COME-00 CIAE-00 INR-11

NSAE-00 RSC-01 TRSE-00 SS-20 SP-03 NSC-07 PRS-01

INRE-00 SSO-00 NSCE-00 DRC-01 /082 W

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O 052020Z AUG 74

FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC IMMEDIATE 8353

LIMITED OFFICIAL USE PORT AU PRINCE 1491

E.O. 11652: N/A

TAGS: ETRD, EIND, HA

SUBJECT: DUPONT CARIBBEAN

REF: STATE 167438

1. ACCORDING TO EMBASSY LAWYER, PIERSON HAS NO FURTHER LEGAL PROCEDURES OPEN TO HIM IN HAITI. ORIGINAL COURT FINDING, NOW CONFIRMED BY SUPREME COURT, IS THAT CONTRACT IS NULL AND VOID, BASED ON FINDING OF NON-PERFORMANCE OF CONTRACT BY PIERSON. THUS PIERSON NOT ONLY CANNOT CLAIM REIMBURSEMENT FOR FUNDS EXPENDED, BUT IS ALSO LIABLE FOR BOTH HIS AND GOH COURT COSTS.

2. ALTHOUGH AS SUGGESTED REFTEL EMBASSY OR DEPARTMENT COULD APPROACH GOH SUGGESTING POSSIBLE WAYS TO ARRIVE AT AN "AMICABLE" SOLUTION, FOLLOWING FACTORS SEVERELY LIMIT POSSIBILITES OF GOH ACCEPTANCE OF ANY SUGGESTIONS WE MAY CONSIDER MAKING:

A. GOH EVIDENTLY CONSIDERS PIERSON CONTRACT A CLOSED MATTER AND NOW THAT LAST LEGAL AVENUES EXHAUSTED IS MOST UNLIKELY TO RESUME ANY NEGOTIATIONS WITH HIM.

B. PIERSON'S PRESENT POSITION THAT EITHER CONTRACT BE HONORED OR THAT HE BE PAID \$5 MILLION NOT CONDUCIVE TO AMICABLE SOLUTION. FOR ONE THING, GOH DOES NOT HAVE \$5 MILLION AVAILABLE OR ANYTHING APPROACHING THAT SUM. MORE IMPORTANTLY,

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THE EMBASSY CAN SEE NO POSSIBILITY OF: (1) GOH REINSTITUTING

DCI CONTRACT; (2) GOH ENTERING INTO ANOTHER CONTRACT WITH PIERSON; OR (3) GOH ENTERING INTO ANY CONTRACT PROVIDING A CONCESSION TO DEVELOP THE ILE DE LA TORTUE THAT FAILS TO MEET STRICT CRITERIA OF SOVEREIGNTY NOW BEING APPLIED. THERE IS NO DOUBT THAT PRESIDENT DUVALIER AND MOST HAITIAN LEGAL AUTHORITIES CONSIDER THAT THE CONTRACT BETWEEN DCI AND THE HAITIAN STATE WAS UNCONSTITUTIONAL. OVER PAST THREE YEARS HAITIAN VIEWS ON NATIONAL SOVEREIGNTY AND SENSITIVITY TO ANY INFRINGEMENT OF THAT SOVEREIGNTY HAVE BECOME MORE PRONOUNCED, TO THE POINT OF DEVELOPING INTO A ROUGH POLICY FRAMEWORK. (THE GOH IN FACT IS TAKING STEPS CURRENTLY TO RENEGOTIATE SEVERAL OTHER CONTRACTS IN ORDER TO ELIMINATE ALL CLAUSES PROVIDING FOREIGN-OWNED COMPANIES WITH A MONOPOLY POSITION, EVEN FOR A LIMITED PERIOD OF TIME.)

C. LAST OCCASION ON WHICH GOH AND PIERSON HELD CONVERSATIONS TO ARRIVE AT AN AMICABLE SOLUTION PROVED COMPLETE FIASCO. AT URGING OF HAITIAN AMBASSADOR TO U.S. BOUCHETTE, A MEETING WAS ARRANGED IN MARCH 1974 ATTENDED BY PIERSON, HIS ATTORNEY MERCERON, AND GOH MINISTERS FOURCAND AND JEANTY. PIERSON CAME OUT OF THE MEETING CLAIMING THAT THE MINISTERS HAD AGREED TO HIS NEW PROPOSALS AND HE REPEATED THAT CLAIM BOTH IN TALKS WITH U.S. OFFICIALS AND IN TELEGRAMS TO HAITIAN OFFICIALS. ON THE OTHER HAND, THE MINISTERS (AND PIERSON'S ATTORNEY, GERALD MERCERON, WHO WAS PRESENT) TOLD EMBASSY OFFICERS THAT HAITIANS HAD STRESSED FACT THEY WERE AUTHORIZED NOT TO NEGOTIATE BUT ONLY TO HEAR PIERSON'S CASE AND REPORT TO PRESIDENT. IT THUS SEEMS UNLIKELY THAT ANY HAITIAN MINISTER WOULD BE WILLING TO ENTER INTO TALKS WITH PIERSON SINCE IN HAITIAN VIEW IT APPEARS THAT AFTER A MEETING PIERSON UNDERSTANDS AND REPORTS AS FACT WHAT HE WANTS AND THINKS WAS SAID, RATHER THAN WHAT WAS ACTUALLY SAID. THIS IS EVIDENTLY NO NEW PHENOMENON IN THEIR DEALINGS WITH PIERSON, AND LAST MEETING APPEARS TO HAVE CONFIRMED THEIR CONCLUSION THAT PIERSON CANNOT BE DEALT WITH REASONABLY.

D. PIERSON TESTIMONY BEFORE CONGRESS, WHEN IT BECOMES KNOWN IN DETAIL TO GOH, WILL ONLY SERVE TO CONFIRM GOH VIEWS AS TO PIERSON'S UNRELIABILITY AND MAKE IT EVEN MORE UNLIKELY THAT A MEANINGFUL DIALOGUE BETWEEN DCI AND GOH CAN BE RESURRECTED.
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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CHEMICAL INDUSTRY, LITIGATION, BUSINESS FIRMS, CONTRACTS
Control Number: n/a
Copy: SINGLE
Draft Date: 05 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: cunninfx
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974PORTA01491
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740213-0698
From: PORT AU PRINCE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740874/aaaackm.tel
Line Count: 98
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: STATE 167438
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 16 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 SEP 2002 by boyleja>; APPROVED <20 FEB 2003 by cunninfx>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DUPONT CARIBBEAN
TAGS: ETRD, EIND, HA, US, DUPONT CARIBBEAN, (PIERSON, DON)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005